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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,510	10/17/2003	Timothy W. Pazdro	351602-1010	2000
24504 7590 11/20/2007 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY STE 1500 ATLANTA, GA 30339			EXAMINER PLUCINSKI, JAMISUE A	
			ART UNIT 3629	PAPER NUMBER
			MAIL DATE 11/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/688,510

**Applicant(s)**

PAZDRO, TIMOTHY W.

**Examiner**

Jamisue A. Plucinski

**Art Unit**

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20031017</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. With respect to Claim 11: the phrase "sending the combination of the completed first correspondence medium an envelope" is indefinite. The phrase is grammatically incorrect, and appears to be missing an "and" between the medium and "an envelope", which causes it to be unclear.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 11-20 and 25-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Tackbary et al. (6,092,054).

6. With respect to Claims 11 and 25-27: Tackbary discloses the use of a method for assisting an author in conveying a personal message (see abstract) comprising:

- a. Providing a message kit with a first medium for receiving a personal message (User interface 85, and Figures 4, 5 and 9 with corresponding detailed description), a second medium for receiving information associated with an intended recipient (recipient database, 90), a first directive for notifying a fiduciary of the authors intention to have the first correspondence be sent in an envelope to the intended recipient on a preferred date or triggering event (see Figure 4 and 6a with corresponding detailed description);
- b. Receiving and storing the message as well as the recipient information (see Figure 4 with corresponding detailed description);
- c. Receiving notification from the fiduciary of the occurrence of the triggering event and send the combination of the first correspondence medium and an envelope to the recipient (see abstract).

7. With respect to Claims 12 and 28: See Tackbary abstract.

8. With respect to Claims 13, 29 and 30: Tackbary discloses verifying accuracy of information, such as mail mode, whether the card will get to the intended recipient on time (column 9, lines 18-25).

9. With respect to Claims 14 and 31: See Tackbary, Column 5, lines 15-31, Column 6, lines 31-43 and Column 10, lines 6-27.

10. With respect to Claims 15-17 and 32: See Tackbary, See Figures 6A and 8 with corresponding detailed descriptions.
11. With respect to Claim 18: Tackbary discloses the use of a message kit (See abstract, electronic message kit) comprising:
  - d. A means for recording a personal message (See Figure 9, with corresponding detailed description)
  - e. A means for forwarding the personal message and handling instructions to a holding party (distribution center), (see Figure 4 and 6a with corresponding detailed description);
  - f. A means for instructing a fiduciary of an author's intent for the holding party to send the personal message upon the occurrence of a specified date following the occurrence of a triggering event (See Figure 4 with correspondence detailed description, as well as Database Manager, Figure 2);
  - g. And a means for receiving notification from the fiduciary of the occurrence of the triggering event (Reference numeral 30 with corresponding detailed description).
12. With respect to Claim 19: Tackbary discloses the orders can be written mail (Reference number 50, therefore the personal message can be handwritten.
13. With respect to Claim 20: The claims are directed to a message kit, therefore in essence an apparatus claim, which is held to the structural limitations. The type of event, whether a holiday or an incapacity is merely intended use of the message kit, and therefore does not effect the structure of the claim.

14. Claims 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Thorp (Journal of Disability Policy Studies article).

15. With respect to Claims 21-24: Thorpe discloses a method for conveying a personal message where the message is recorded then forwarded to a lawyer (holding party) where the handwritten personal message is delivered on the occurrence of a triggering event such as death (Page 7, Letters of Intent).

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-5, 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cangiarella (US 2004/0256281).

18. With respect to Claim 1: Cangiarella discloses the use of a novelty message kit (see abstract), comprising:

h. A first correspondence medium (reference numeral 39), a second correspondence medium (mailing label, Paragraph 0015), a first directive (Instructions 42). It should be noted, that the claims are drawn to an apparatus, which are held to the structural limitations. Therefore the limitations of "for receiving a personal message", "for receiving information associated with an intended recipient of the personal message" and

“for notifying a party other than an author of the personal message of the intent of the author to have a holding party in possession of the first correspondence medium as completed and the envelope send the combination of the completed first correspondence medium and the envelope in accordance with a preferred receipt date communicated via the second correspondence medium” as well as “wherein the holding party retains the completed first correspondence medium and the envelope until after the occurrence of an author identified triggering event” are considered to be intended use of the apparatus.

19. Cangiarella discloses the use of a shipping box, and fails to disclose the use of an envelope. It would have been obvious to one having ordinary skill in the art at the time the invention was made, to substitute an envelope for a shipping container, since the examiner takes Official Notice of the equivalence of a shipping box and an envelope for their use in the shipping art, and the selection of any of these known equivalent shipping containers would have been within the level of ordinary skill in the art. Cangiarella discloses the use of a box for protective purposes of the container, however padded envelopes are well known to be protective as well. Furthermore, Cangiarella discloses the shipping container to be flat, much like an envelope (Paragraph 0005)

20. With respect to Claim 2: See Paragraph 0016, Cangiarella discloses the use of message paper which the examiner considers to be stationary.

21. With respect to Claims 3 and 4: Ciangarella discloses the use of a correspondence medium, however fails to disclose the medium being greeting cards or post cards. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the correspondence to be either a greeting card or a post card

because Applicant has not disclosed that the greeting card or the post card provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either a personal correspondence paper, greeting card, or post card because they all perform the same function of relaying a personal message. Therefore, it would have been an obvious matter of design choice to modify Ciangarella to obtain the invention as specified in claims 3 and 4.

22. With respect to Claims 5, 9 and 10: As discussed above what the correspondences are for, or what is written on them, is considered to be intended use, and the type of information printed on the correspondence medium as well as what the triggering event is, does not structurally change the medium.

23. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciangarella as applied to claim 1 above, and further in view of Kara (6,208,980).

24. With respect to Claims 6 and 7: Kara fails to disclose the use of a confirmation medium with the use of an envelope to send back to the sender for the confirmation medium. Kara discloses a piece of Mail having a confirmation medium attached as well as a return envelope (Column 3, lines 7-14 as well as Figures 19-20 with corresponding detailed description). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify the kit of Ciangarella to include the return medium and envelope, as disclosed by Kara, due to the fact that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results. See KSR [127 S Ct. at 1739]



25. With respect to claim 8: Due to the fact that Claim 8 is dependent on Claim 1, the examiner considers the confirmation medium of Kara, to also be a form of a second directive, due to the fact that it directs the recipient to send back return correspondence.

### *Conclusion*

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lockhardt et al. (US 2002/0103697) and Friedman et al. (US 2006/0036681) disclose the use of an electronic greeting card system which keeps messages till a later date and Collins (5,887,905) discloses the use of a label with a post card for correspondences.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Plucinski whose telephone number is (571) 272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

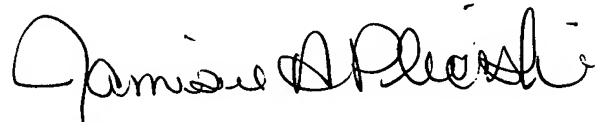
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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jp

  
JAMISUE PLUCINSKI  
PRIMARY EXAMINER